

**SMITH KATZENSTEIN  
JENKINS LLP**

July 10, 2025

***Via CM/ECF***

The Honorable Jennifer L. Hall  
J. Caleb Boggs Federal Building  
Unit 17, Room 6312  
844 North King Street  
Wilmington, DE 19801-3555

**Re: *Ingenus Pharmaceuticals, LLC v. Hetero USA, Inc. et al.*  
C.A. No. 24-1025-JLH**

Dear Judge Hall:

Pursuant to Your Honor's July 3, 2025 Oral Order, I write jointly on behalf of Plaintiff Ingenus Pharmaceuticals, LLC ("Ingenus") and Defendants Hetero USA, Inc., Hetero Labs Ltd., and Hetero Labs Ltd. Unit-VI ("Hetero") (collectively, "the Parties") with a joint status report.

The Parties have met and conferred and are unable to agree to any of the proposed solutions discussed at the July 3 Status Conference. However, the Parties agree that Hetero will file its summary judgment motion on Thursday, July 24, 2025, with the timing for briefs to be determined according to Local Rule 7.1.2(b). Each party's position on briefing is outlined below.

**Ingenus's Proposal**

Ingenus requests briefing pursuant to the Local Rules, with page length as specified in Local Rule 7.1.3(a)(4). Additionally, the case law is clear that as the "patentee-plaintiff," Ingenus "must be permitted to demonstrate, if [it] can, that [it] did not have 'a fair opportunity procedurally substantively and evidentially to pursue his claim the first time.'" *Blonder-Tongue Labs., Inc. v. Univ. of Ill. Found.*, 402 U.S. 313, 333 (1971) (citation omitted). Since Ingenus will be presenting this argument for the first time in its answering brief in opposition to Hetero's summary judgment motion, Ingenus requests a 10-page sur-reply brief to be filed 7 days after Hetero's reply brief. This would yield the following briefing schedule:

- July 24, 2025 – Hetero moves for summary judgment / 20 page opening brief
- August 7, 2025 – Ingenus 20 page answering brief
- August 14, 2025 – Hetero 10 page reply brief
- August 21, 2025 – Ingenus 10 page sur-reply brief

**Hetero's Proposal**

At the Court's instruction, Hetero and Ingenuis met and conferred on July 8, 2025 to discuss whether the parties could reach an agreement regarding a final judgment in this matter. Ingenuis stated that it would not agree to any form of final judgment, regardless of the form of judgment or any concession Hetero might make to facilitate efficient resolution of this matter. *See* July 3, 2025 Hr. Tr. at 4:4-9 (suggesting that “[w]e could enter judgment in this case and defendant or plaintiff could file a protected appeal,” or “have some sort of a stipulation to enter judgment whereby the judgment could be reopened and the Court could retain jurisdiction if the decision on invalidity in the other case is reversed”).

Ingenuis rejected all of the suggestions made by the Court and insisted that the parties brief the issue of collateral estoppel. And despite the Court's instruction that it does not “need a lot of briefing on this,” Hr. Tr. at 17:10-11, Ingenuis insists on more briefing than the local rules allow, requesting an entirely unnecessary sur-reply to Hetero's motion for summary judgment.

As suggested by Your Honor, Hetero proposes that each party submit a single three-page letter brief in support of or opposition to Hetero's motion for summary judgment. The issues relevant to Hetero's motion, including Ingenuis's argument that it was denied a “full and fair opportunity” to present its case to the Northern District of Illinois, have already been addressed by the parties, including in D.I. 48 (Defendants' request for a status conference), D.I. 49-51 (Plaintiff's motion to stay), D.I. 60-61 (Defendants' opposition to the motion to stay), and D.I. 64 (Plaintiff's reply in support of its motion to stay). There is therefore no need for further, extensive briefing on these issues.

Hetero therefore proposes that the parties follow the Court's suggestion at the status conference to file summary judgment briefs according to the following schedule:

- July 24, 2025 - Hetero submits its three-page letter brief
- August 7, 2025 – Ingenuis submits its three-page letter brief

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Counsel is available at the Court's convenience should Your Honor have any questions.

Respectfully submitted,

/s/ *Daniel A. Taylor*

Daniel A. Taylor (No. 6934)

cc: Counsel of record (via CM/ECF and email)